Supreme Court, U.S.
FILED

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No.

IN THE

# Supreme Court of the United States

MICHAEL MC WILLIAMS,
*Petitioner,*

*versus*

AMSTAFF, ET AL.,
*Respondents.*

On Petition for a Writ of Certiorari to the Supreme Court of Florida

## PETITION FOR A WRIT OF CERTIORARI

MICHAEL MC WILLIAMS
6662 Hetzel Drive
Milton, Florida 32570
(850) 983-0492

WESTERFIELD-BONTE CO., 619 W. KENTUCKY-P.O. BOX 3251, LOUISVILLE, KY.

## QUESTIONS PRESENTED

1. Does the Petitioner have the right in pursuit of the First United States Constitution and s. 5, Art. 1 of the State constitution to petition and defend himself with ultimate facts or can the judges use their gatekeeping authority to ignore the undisputed ultimate facts and expert witnesses (Doctors) and dismiss all the ultimate facts and claim anything they please.

2. Does the Petitioner McWilliams (Teacher) have the right to defend himself, if he is attacked from behind by a student in class or any other person in the United States (instant case, can a teacher restrain a student attacker without harm to the student, without forfeiting worker's compensation).

## CORPORATE DISCLOSURE STATEMENT

All parties do not appear in the caption. The Parent of AmStaff Human Resource Inc., (co-employer) and Liberty Mutual Insurance Company is Escambia Charter School (Client company) that is sponsored by and a part of the Escambia County School District and funded by the State of Florida.

## TABLE OF CONTENTS


| | PAGE |
|---|---|
| **QUESTIONS PRESENTED** | i |
| **CORPORATE DISCLOSURE STATEMNET** | ii |
| **I. OPINION AND ORDERS BELOW** | 1 |
| **II. JURISDICTIONAL STATEMENT** | 2 |
| **III. CONSTITUTIONAL AND STUTORY PROVISIONS INVOLVED OR STATUTES AND RULES** | 3 |
| **IV. STATEMENT OF THE CASE** | 5 |
| **V. REASON FOR GRANTING THE PETITIONS** | 11 |
| A. In general the agencies has failed to address or remedy the OJCC claims, that erroneously interpreted a provision of law and that are inconsistent with agency rule and that are in conflict with the opinion attached to the OJCC opinion. Therefore passing upon a question certified to be of great public importance and to the fairness of a proceeding which fails to follow prescribed procedure based on the ultimate facts | 12 |
| B. The agency's exercise of discretion was outside the range of discretion delegated to the agency by law and unconstitutional. The Judge of compensation claims, claims he denied compensation because the injured teacher McWilliams deviated from his scope of employment (in self defense) and injured himself removing the student attacker from his back in class. | 15 |
| **VI. CONCLUSION** | 16 |

**APPENDIX:**

| | |
|---|---|
| Appendix A | 1a-29a |
| Appendix B | 30a-55a |
| Appendix C | 56a-67a |
| Appendix D | 68a-72a |

## TABLE OF AUTHORITIES


PAGE

**Cases:**

*Barrett v. City of Margate*,743 So. 2d 1160,1162 (Fla. 4th DCA 1999) ..... 11
*Jenkins v. State*, 385 So. 2d 1356 (Fla.1980) ..... 1, 10
*Orange County MIS Dept. v. Hak*, 710 So.2d 998 (Fla.1st DCA 1998) ..... 16
*Pennsylvania State Police v. Suder*, 325 f.3d 432 (2004), 325f.3d, 463 ..... 12
*Vigliotti v. Kmart Corpation*, 680 So. 2d 466 (Fla.1st DCA 1996) ..... 15

**Statutes and Rules:**

Fla.Stat. 440.02(36) ..... 2, 5, 10, 14, 15, 17
Fla. Rapp.P 9.100(a)(b) ..... 4
Fla. Rapp.P 9.030(a)(5) (6),(c) ..... 4
U.S CFR CH I 18.10(a)(b)(1)(2) ..... 4
Fla. Stat. 2004 Title X 120.68(1)(7)(c)(d)(e) 1. 2. 3. 4 ..... 4, 10
Fla. Stat. ss 440.25(e) ..... 5, 6, 10, 12, 14
Fla. State Constitution, Art. 5, Section 3(b)(1)(3)(4)(5) ..... 10
U.S. Constitution ..... 3, 4
Fla. Stat. ss 440.09 ..... 5, 10, 14
Fla. Stat. ss 440.02(32), (Supp.1994) ..... 5
Fla. Amend.14, ss 1, note 1022 ..... 5, 11
28 U.S.C. ss 1746 ..... 3, 10
28 U.S.C. ss 1651 ..... 3, 17
U.S. Supreme Court Rule 20 ..... 17

## I. OPINION AND ORDERS BELOW

The decision of the Supreme Court of Florida that gave rise to this petition is unpublished as *Michael McWilliams vs. AMSTAFF*, Liberty Mutual Case No.: SC05-405, Lower Tribunal No.: 1D03- 2849, OJCC Case No.: 02-048703DWL, and is reprinted in the Appendix C bound herewithin. The Petitioner filed a response to a series of orders by The Supreme Court of Florida based on This Court's Instructions. The Supreme Court of Florida May 24, 2005 response is pursuant to their previous orders; and Please also be advised that the above styled case is final in this court and no further pleadings may be filed. The Supreme Court of Florida dismissed the petitioner's Motion to reinstate the Appeal and Objects to the Supreme courts order and Petitioner's Appeal's this Case Directly to the United States Supreme Court. Petition for Writ of Certiorari, a April 26, 2005 order Motion for rehearing is hereby stricken as unauthorized. Appendix D. The Supreme Court of Florida dismissed the petitioner's petition for review, in favor of AMSTAFF, Liberty Mutual Motion of Appellee to Dismiss review, Case No.: 1D03-2849 "Affirmed"; It appearing to the Court that it is without jurisdiction, the Petition for review is hereby dismissed. See *Jenkins v. State*, (Affirmed). No Motion for rehearing will be entertained by the Court on March 10, 2005, in an unpublished order that is reprinted at Appendix C. The Supreme Court of Florida claims it lacks jurisdiction to review a decision affirmed by the District Court of Appeal, First District, State of Florida "Per Curiam Affirmed" opinion Filed February 4, 2005 is reprinted in the Appendix A. The District Court of Appeal, First District, order comes after the Appellant's reply brief; There was no Competent Substantial Evidence For the Judge Of Compensation Claims to deny compensability, A December 30 2003, order of the court; Appellee's answer brief filed December 23, 2003, is accepted as timely filed. A December 12, 2003 order Counsel for appellant shall en-

sure preparation and transmittal of the supplemental record within 30 days; Stipulation correcting and supplementing record pursuant to rule 9.200(f). An October 30, order Appellant's brief shall be filed on or before December 1, 2003; Appellant's motion filed October17, 2003, for extension of time for service of the initial brief. All Appendix A. The Appellant Appeals the Judge Of Compensation Claims order denying all benefits on June 13, 2003 (Appendix B) with JCC supporting case (A).

## II. JURISDICTIONAL STATEMENT

Petitioner/appellant was involved in a hostile environment at the Escambia Charter School (guns, threats, Harassment) and was attacked from behind "without warning" in class by a student, evidence proffered. The nature of relief sought by Michael McWilliams, Section 440.02(36), Pleading in a worker's comp claim, seeking benefits or award for compensability, temporary partial disability benefits and future medical treatment. On June 13, 2003, the Judge Of Compensation Claims denied all benefits. This case raises questions concerning the JCC acting in bad faith and his misapplication of Florida's Worker's compensation laws/rules and procedures, his opinion filed June 13, 2003 was outside the range of discretion delegated to the agency by law and unconstitutional based on the undisputed ultimate facts. The District Court of Appeal, First District, State of Florida opinion Filed February 4, 2005 is without remdy it "Per Curiam Affirmed" the JCC opinion filed June 13, 2003, but failed to address the appellant's Answer brief and initial brief statements that the JCC erred. The Supreme Court of Florida March 10, 2005 opinion dismissed the case for lack of jurisdiction "Affirmed" that fails to address the Petitioner's petition for redress of grievances before the various governmental entities of this state as protected by the First United States. The Supreme Court of Florida dismissed the petitioner's Motion to rein-

state the Appeal and Objects to the Supreme courts order and Petitioner's Appeal's this Case Directly to the United States Supreme Court. Petition for Writ of Certiorari, an April 26, 2005 order Motion for rehearing is hereby stricken as unauthorized. The Petitioner filed a response to a series of orders by The Supreme Court of Florida based on This Court's Instructions. The Supreme Court of Florida May 24, 2005 response is pursuant to their previous orders; and Please also be advised that the above styled case is final in this court and no further pleadings may be filed. The Petitioner's Writ of Certiorari is being timely filed with rule13.1, 13.5 and rule 30 due date July 22, 2005. This Court has Jurisdiction pursuant to 28 U.S.C. ss 1746 or 28 U.S.C. ss 1651.

## III. CONSTITUTIONAL AND STUTORY PROVISIONS INVOLVED OR STATUTES AND RULES

This case raises questions concerning the JCC acting in bad faith and his misapplication of Florida's Worker's compensation laws/rules and procedures, his opinion filed June 13, 2003 was outside the range of discretion delegated to the agency by law and unconstitutional based on the undisputed ultimate facts. The District Court of Appeal, First District, State of Florida opinion Filed February 4, 2005 is without remedy it "Per Curiam Affirmed" the JCC opinion filed June 13, 2003, but failed to address the appellant's Answer brief and initial brief statements that the JCC erred. The Supreme Court of Florida March 10, 2005 opinion dismissed the case for lack of jurisdiction "Affirmed" that fails to address the Petitioner's petition for redress of grievances before the various governmental entities of this state as protected by the First United States Constitution and s. 5. Art.1 of the State constitution:

> "It is the intent of the legislature to protect the rights of Florida's citizens to exercise their rights to peace-

fully assemble, instruct their representatives, and petition for redress of grievances before the various governmental entities of this state as protected by the First United States Constitution and s. 5. Art. 1 of the State constitution. The legislatures..."

Florida Statutes 2004 Title X 120.68 judicial review. 120.68 (1) "A party who is adversely affected by final agency action is entitled to judicial review. A preliminary, procedural, or intermediate order...or...administrative law judge...is immediately review able if review of the final agency decision would not provide an adequate remedy". Fla.120.68(7); (c) The Fairness of a proceeding ... "failure to follow prescribed procedure"; (d) The agency has erroneously interpreted a provision of law.... (e) the agency's exercise of discretion was:

1. outside the range of discretion delegated to the agency by law;

2. inconsistent with agency rule;

3. inconsistent with the official stated agency policy or prior practice, if deviation therefrom is not explained by the agency;

4. Otherwise in violation of a constitutional or statutory provision; but the court shall not substitute its judgment for the agency on an issue of discretion.

See Fla. Rapp. P9.100(b) The original jurisdiction of the court shall be invoked by filing a petition, accompanied by a filing fee or by rule 9.030(a) (5) pass upon a question certified to be of great public importance (6), (c) 28 CFR CH. 1(7-1-04 edition) ss18.10 Rehearing. (a) "Any appellant dissatisfied with a final agency decision under ss 18.9 may, within 30 days after the notice of the final agency decision is sent, request a responsible agency to re-review"

(b) If the responsible agency official finds that the appellant has:

(1) Presented evidence or arguments which is sufficiently significant to require the conduct of further proceedings; or

(2) "Shown some defect in the conduct of the initial hearing sufficient to cause substantial unfairness or erroneous finding..."

Fla. Stat. ss 440.02(36) claimant's(teacher) injuries "arise out of" work performed within the course and scope of employment was the major contributing cause of injuries.

Fla. Stat. ss 440.09 claimant's proved his injuries within medical certainty by objective findings (Doctor's Depo)

Fla. Stat. ss 440.02(32) Requires claimant to prove a causal link between an employee's actual work function and the injury "the work perform" must be the " major contributing cause" of the injury.

Due process, Amend. 14, ss1, note 1022. Inferences. "A statute, creating an inference that is given effect of evidence to be weighed against the opposing testimony, violate this clause if created by a state statute and due process clause of Amend. 5. *Internal Revenue v. Bian Peanut Co.*; (AFFIRMING is an Inferences)

Florida Statutes 440.25(e) order shall set forth the findings of ultimate facts and mandates.

## IV. STATEMENT OF THE CASE

The petitioner is the appellant/claimant in a worker's compensation claim, Section 440.02(36), seeking benefits or award for compensability, temporary partial disability benefits and future medical treatment for a neck injury cause by an ECS student jumping/attacking the petitioner (teacher) from behind with out warning in class. The JCC David Langham June 13, 2003 order denied Petitioner/ Appellant benefits, stating petitioner injured himself re-

moving the student from his back. The June 13, 2003 order entered by JCC David Langham was in bad faith, it was not based on the ultimate facts in the record or required by law, Florida Statutes 440.25(e) "order shall set forth the findings of ultimate facts and mandates". The Judge David Langham asked each attorney to right a final order. Judge David Langham Favored, ratified, and adopted Amstaff and Liberty Mutual attorney's Mr. Magie's final order that was not based on the ultimate facts in the record required by law.

The JCC Judge Langham furthermore stapled an opinion from Mr. Magie's own previous case (No.: 265-04-0429) that is in conflict with the JCC Langham's June 13, 2003 order denying petitioner benefits. The order (July 9, 2000) stapled to the JCC June 13, 2003 order that was used to deny petitioner benefits, basically states a worker at a local paper mill punched a door because he was mad at his wife. The District Court of Appeal (Case No.: 1D01-3202) affirmed the JCC order (July 9, 2000) denying compensability. Appendix A.

The JCC Judge David Langham contradicts himself in his June 13, 2003 order and "has erroneously interpreted a provision of law..." in his opening statements and through out the June 13, 2003 order and it is not clear if Judge David Langham considered all the evidence or failed to consider all the evidence/testimony? Judge David Langham refused to hear the claimant connect the issues (dates, times, people) together with his school documents related to the case or let petitioner McWilliams authenticate his documents (Ecambia Charter School's Principal letters to petitioner, attackers letter, petitioner's discipline forms, zero tolerance rule, etc.), that is clearly allowed under the rules of admissible evidence. The JCC denied the evidence based on several objection (15 times in ten minutes) ( hearsay, refreshing memory, etc.) from AmStaff/liberty attor-

ney Mr.Magie who falsely claimed "I didn't even know about the documents". Mr. Magie gave the petitioner/claimant several documents himself from the ECS principal and CEO.

Three letters from AmStaff/Liberty/Escambia Charter School were given to my first undecided attorney on Nov. 7, 2002 as evidence to cancel Petitioner/Appellant/claimant's benefits on Nov. 4, 2002, after the fact. Judge David Langham failed or refused to review those letters as well as the other documents (dismissed evidence). The Petitioner/Claimant was hit and threatened three times, on three different days (Oct. 24, 25, 29) by the student attacker David Thompson. David Thompson was not expelled. He threaten me again on Oct 29. On Oct. 24, 2002, X teacher Mr. Augistine witnessed the student David Thompson hit the Petitioner at lunch. Mr. Augistine did not witness the Oct. 25 attack that injured the Petitioner/Claimant in his 7th period class. Judge David Langham failed to review the testimony and record, he confuses the facts and lump all three incidences into one day of his June 13 order to deny the Petitioner/Claimant Worker's comp benefits basically stating the petitioner McWilliams lied and injured himself. All evidence proffered.

Judge David Langham makes a bias claim against the Petitioner/Claimant in his June 13, 2003 final order that are "outside the range of discretion delegated to the agency by law." The JCC portrays the Petitioner/Claimant in a bad light. Judge Langham: "I accept that David Thompson and Mr. Godwin's account of this is the more credible and believable. Claimant's attempt"... The undisputed record/transcript shows David Thompson admitted jumping the Petitioner/Appellant from behind without warning in class.

Employer/Carrier defenses amended pretrial stipulation claim; Claimant teacher, "grabbed a student in class... shortly after the student approached claimant from rear